



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: December 24, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000895

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On September 23, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 27, 2014 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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## Decision

Decision Date: December 24, 2014

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[REDACTED]  
[REDACTED] [REDACTED] [REDACTED]  
[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that you were not eligible for advance premium tax credit or cost-sharing reductions as of August 27, 2014?

Did the Marketplace properly determine that you were not eligible for Medicaid as of August 27, 2014?

## Procedural History

The Marketplace received your initial application for health insurance on July 14, 2014. The Marketplace made a preliminary determination that you are eligible to enroll in a qualified health plan (QHP) without financial assistance.

On July 15, 2014 and July 30, 2014, the Marketplace issued notices stating that you selected the Medical w/ Dental MetroPlus Platinum Plus-P2 health plan with a maximum advance premium tax credit (APTC) of \$0.00.

On August 6, 2014, the Marketplace issued an eligibility determination notice stating that you are eligible to enroll in a qualified health plan and not eligible to receive tax credits because your household income is over the allowable limit. It also stated you are not eligible for Medicaid because your household income is over the allowable income limit.

On August 26, 2014, you reapplied for health insurance through the Marketplace twice. That same day, the Marketplace made a preliminary redetermination that

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you were eligible to enroll in a qualified health plan but were not eligible to receive financial assistance. On August 26, 2014, you also spoke to the Marketplace's Account Review Unit and submitted an appeal request.

On August 27, 2014, the Marketplace issued an eligibility determination notice stating that you are eligible to enroll in a qualified health plan but not eligible for an advance premium tax credit, cost-sharing reductions, or Medicaid because your household income is over the limit for those programs.

On September 23, 2014, you appeared for the scheduled telephone hearing. Testimony was taken at the hearing. The record was held open until September 30, 2014 to allow you to submit additional documentation.

On September 26, 2014, you submitted a September 24, 2014 typed statement from yourself; a transaction search from your [REDACTED] bank account; an Unemployment Insurance Benefits (UIB) payment history (collectively marked as Appellant's Exhibit A); and your last pay stub from [REDACTED] [REDACTED] (marked as Appellant's Exhibit B). These documents were made part of the record, and the record was closed. The record is now complete and closed.

## Findings of Fact

A review of the record supports the following findings of fact:

1. You testified that you plan on filing a 2014 federal income tax return.
2. You testified that you plan on filing your tax return with the tax status of Single and will claim no dependents on your 2014 federal income tax return.
3. According to your August 26, 2014 Marketplace Application, your 2014 expected annual household income is \$52,663.00. Your expected yearly income was based on \$42,133.00 in earned income and \$10,530.00 in Unemployment Insurance Benefits.
4. You testified that you held four different jobs between January 1, 2014 and July 7, 2014. You testified that earned approximately \$42,133.00 from those positions.
5. You testified and submitted a statement indicating that you were unemployed as of July 6, 2014 (Appellant Exhibit A).
6. The record contains your last pay stub from [REDACTED] [REDACTED] for the pay period July 1, 2014 through July 15, 2014. It indicates gross earnings

of \$3,958.33 and year-to-date gross earnings of \$28,458.31 as of the pay date of July 15, 2014 (Appellant's Exhibit B).

7. The record contains a written statement from you dated September 24, 2014, contending that your first UIB payment was received on August 1, 2014 and your last payment was received on August 15, 2014 because your unemployment claim had expired (Appellant's Exhibit A).
8. The record contains a transaction search of your [REDACTED] bank account for the period of July 1, 2014 until September 24, 2014, indicating that you received direct deposits from New York Department of Labor for UIB on August 1, 2014, August 7, 2014, and August 15, 2014, each in the amounts of \$405.00 (Appellant's Exhibit A).
9. The record contains a UIB benefit payment history showing that you have a weekly benefit amount of \$0.00 with an effective start date of September 22, 2014 (Appellant's Exhibit A).
10. You applied for health insurance through the Marketplace in July and August 2014.
11. According to your application you live in New York County, New York.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Advance Premium Tax Credit

The advance premium tax credit is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2013 federal poverty level; (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan; and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through the NY State of Health in the county where the taxpayer resides

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minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution is set by Federal law at 2% to 9.5% of annual household income (26 USC § 36B(b)(3)(A)).

In an analysis of APTC eligibility, the determination is based on the FPL "for the benefit year for which coverage is requested. (45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2013 FPL, which is \$11,490.00 for a one-person household (78 Fed. Reg. 5182, 5183).

### Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive advanced premium tax credits, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

### Medicaid

Medicaid can be provided through the Marketplace to adults who: (1) Are age 19 or older and under age 65; (2) Are not pregnant; (3) Are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act; (4) Are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part; and (5) Have a household modified adjusted gross income that is at or below 138% of the federal poverty for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

## Legal Analysis

According to the record, you are the only member of your tax household. You expect to file as single on your tax return for 2014 and to claim no dependents.

According to your Marketplace application and your evidence at the hearing, you earned \$42,133.00 during 2014 before you separated from employment, and expect to receive \$10,530.00 in unemployment benefits this year. This supports a finding that your expected 2014 income is \$52,663.00, which is the household income used for the August 26, 2014 determination.

An annual household income of \$52,663.00 equals 458.34% of the 2013 federal poverty level for a one-person household. At 458.34% of the federal poverty level, you are above the income limit to be eligible for an advance premium tax credit. Therefore, the Marketplace correctly determined that you were not eligible to receive financial assistance based on your expected yearly income.

Since you were not eligible to receive advance premium tax credit, the Marketplace correctly determined that you were not eligible for cost sharing reductions.

Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138.0% of the federal poverty level (FPL) for the applicable family size. On the date of your application, the relevant FPL was \$11,670.00 for a one-person household. Since \$52,663.00 is 451.26% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the August 27, 2014 determination properly stated that, based on the information you provided, you were not eligible for advance premium tax credit, not eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, additional evidence provided on appeal indicates that the information contained on your July 2014 and August 2014 applications no longer reflects your current income situation.

The record supports findings you were unemployed as of July 6, 2014 and that the only income you received during July 2014 (the month of your initial application) was your final paycheck from [REDACTED] in the gross amount of \$3,958.33. Therefore, you received income of \$3,958.33 during July 2014.

The record also supports a finding that you received income of \$1,215.00 during August 2014. This consisted of three UIB payments of \$405.00 each, released on August 1, August 7, and August 15. Your unemployment benefits expired on August 15, 2014, so you did not receive any additional payments during August.

However, based on the documents you submitted and your credible testimony, the only income you received during the month of August 2014 were three UIB payments of \$405.00. Therefore, your monthly income for August 2014 is \$1,215.00. Since the record suggests that the Marketplace calculated your August 2014 eligibility by expected annual income but not by monthly income, the case should be returned to the Marketplace for an eligibility determination on monthly income.

Therefore, your case is returned to the Marketplace to redetermine your eligibility based on a one-person household in New York County with a July 2014 income of \$3,958.33 and an August 2014 income of \$1,215.00.

## **Decision**

The August 27, 2014 eligibility determination is AFFIRMED.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household with a total income of \$3,958.33 for the month of July 2014 and \$1,215.00 for the month of August 2014.

**Effective Date of this Decision:** December 24, 2014

## **How this Decision Affects Your Eligibility**

This decision does not change your eligibility. You remain ineligible for advance premium tax credits and cost-sharing reductions.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household with a total income of \$3,958.33 for the month of July 2014 and a total income of \$1,215.00 for the month of August 2014.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

- Make an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of the Decision (45 CFR § 155.520(c))

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of the Decision.

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services for assistance.

## **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The August 27, 2014 eligibility determination is **AFFIRMED**.

This decision does not change your eligibility. You remain ineligible for advance premium tax credits and cost-sharing reductions.

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Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household with a total income of \$3,958.33 for the month of July 2014 and a total income of \$1,215.00 for the month of August 2014.

## **Legal Authority**

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

**A Copy of this Decision Has Been Provided To:**

[REDACTED]  
[REDACTED] [REDACTED] [REDACTED]  
[REDACTED]